



# LOUISIANA PUBLIC DEFENDER BOARD

## BOARD MEETING

Wednesday, April 6, 2016  
Bluebonnet Regional Library, Room 1  
Baton Rouge, LA 70806  
1:00 p.m.

## AGENDA

1. Call to Order and Remarks of the Chairman
  - a. Commendations (Josh Perry; Kenny Green) and Congratulations (Herschel Richard; Richard Pittman)
2. Call for Public Comment
3. Quorum and Voting\*
4. Adoption of the Agenda\* pgs. 150
5. Review of the Minutes, March 17, 2016 Meeting\* **Tab 1**, pgs. 151-155
6. Budget and Fiscal **Tab 2**
  - a. FY 16 Year End Distribution\* pgs. 156-162
  - b. FY 17 Executive Budget Update pg. 163
  - c. FY 17 Budget Allocation Scenarios\* pgs. 164 - 167
  - d. FY 17 Pro-Forma Budgets–Suspension\* pgs. 168-172
7. Restriction of Services Updates
8. Legislative Session, 2016 **Tab 3**
  - a. Fiscal Notes pgs. 173 - 187
9. Executive Session<sup>1</sup>\*
10. Other Business
11. Next Meetings: May 10
12. Adjournment\*

*\*Requires Board Action*

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<sup>1</sup> The Board may vote to go into executive session pursuant to La. R.S. 42:16 and 42:17 (formerly La. R.S. 42:6 and 42:6.1), by a two-thirds vote of the members present. The executive session is limited to matters allowed to be exempted from public discussion pursuant to La. R.S. 42:17, including strategy sessions with respect to litigation and prospective litigation after formal demand. In accordance with La. R.S. 42:19(A)(b)(iii), the Board may discuss the following: potential litigation in District 28 (LaSalle Parish); *Darwin Yaris, Leroy Shaw and Douglas Brown v. Derwyn Bunton and James T. Dixon, Jr.* Civil Action: 3:16-cv-31, Middle District of Louisiana.



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## MINUTES

1. Call to Order and Remarks of the Chairman. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Wednesday, April 6, 2016 at 1:08 p.m. at the Bluebonnet Regional Library in Baton Rouge, LA.

The following Board members were present:

Robert Burns	Franz Borghardt	Hampton Carver
Jackie Grant	Leo Hamilton	Frank Holthaus
Robert Lancaster	Herbert Larson	Hector Linares
Tom Lorenzi	Steven Singer	Gina Womack

The following Board members were absent:

Flozell Daniels, Jr.	Herschel Richard	Rebecca Hudsmith, <i>ex officio</i>
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The following members of the Board's staff were present:

Jay Dixon, State Public Defender  
Barbara Baier, General Counsel  
Natashia Carter, Acting Budget Officer  
Jean Faria, Capital Case Coordinator  
Anne Gwin, Executive Assistant  
Carol Kolinchak, Trial Level Compliance Officer  
Richard Pittman, Dep. State Public Defender, Dir. Juvenile Defender Services  
Erik Stilling, I.T. Director

Judge Burns commended Josh Perry for his dedication to juvenile representation. Mr. Perry is leaving his position as Executive Director of the Louisiana Center for Children's Rights in August of this year. He also commended Mr. Kenny Green who, after 33 years of public defense work, has retired. Congratulations were extended to Board member Herschel Richard, recipient of this year's LSBA Distinguished Attorney Award and to LPDB staff member Richard Pittman for his recent certification as a Child Welfare Law Specialist, one of four in the State of Louisiana.

Judge Burns also reported that he, Jean Faria and Carol Kolinchak have met with the editorial board of The Advocate, regarding indigent defense crisis in Louisiana.

2. Call for Public Comment. No one presented for public comment.
3. Quorum and Voting\*. General Counsel Barbara Baier presented a summary of her research into the issue which arose at the March 17, 2016 meeting regarding the Board's quorum and voting practices. Ms. Baier's interpretation of La.R.S. 151(A) is that: 1) quorum is eight members which represents a majority of the Board; 2) in order to any action to be taken quorum must be met; and, 3) eight members of the board must vote for an action to pass or fail by a majority of those voting. After a brief discussion, Mr. Hamilton moved to accept the interpretation of La.R.S. 151(A) in accordance with Ms. Baier's opinion. Mr. Lorenzi seconded the motion. Upon a vote of seven in favor and two against with two abstentions, the motion passed.
4. Adoption of the Agenda\*. Mr. Borghardt moved to adopt the agenda as presented. Professor Grant seconded the motion which passed unopposed.
5. Review of the Minutes, March 17, 2016 Meeting\*. Professor Singer moved to accept the Minutes of the March 17, 2016 meeting as presented which was seconded by Mr. Hamilton and passed unopposed.
6. Budget and Fiscal.
  - a. FY 16 Year End Distribution\*. State Public Defender Jay Dixon reported that \$50,000 has been provided to District 25 leaving \$201,491 available for reallocation to other districts in need. Professor Singer moved to authorize the State Public Defender to reallocate any remaining FY 16 funds to those districts determined by staff to be in need. Mr. Hamilton seconded the motion which passed unanimously.
  - b. FY 17 Executive Budget Update. SPD Dixon reported that staff recently learned that LPDB is facing a 30% cut from FY16 funding as opposed to the 62% originally recommended by the governor.
  - c. FY 17 Budget Allocation Scenarios\*. SPD Dixon presented several contingency budget scenarios based on the proposed funding allocation of \$22,577,672 (30% cut from the previous year's funding). Staff recommendation is for 65% of the allocation to go to the districts, leaving \$4.4M to fund the contract programs with three of the 501c3 programs, LAP, IPNO and LCCR to receive 70% of their FY16 budgets, and finally LPDB administrative costs remaining static at \$2.3M. This scenario would leave exigency funds of approximately \$108,000. Mr. Dixon stated that any remaining (exigency) funds would be presented to the Board at the first meeting of the new fiscal year for distribution. Mr. Hamilton moved to adopt staff recommendation which was seconded by Professor Lancaster. After a brief discussion, Prof. Grant moved to authorize the SPD to make appropriate adjustments in distributions in order to provide an addition \$120,000 to the Capital Appeals Program, and to reduce other programs' and DAF distributions as he determines most appropriate. After a brief discussion, Prof. Grant withdrew the motion. Professor Linares moved to call the question, and the motion to call the question failed by a vote of 6 in favor and 6 against. Mr. Carver moved to accept the SPD's recommended DAF and contract program distribution and to authorize the SPD to alter the distribution between programs as he sees appropriate in response to any

newly obtained information. Mr. Hamilton accepted this as a friendly amendment to his motion. Professor. Linares moved to amend the motion to make it explicitly based upon an expected budget cut of 30 percent. After a brief discussion, Mr. Carver moved to accept the staff's recommendation of a DAF amount based upon 65% of the total budget, which motion failed for want of a second. Ms. Womack moved to call the question of the current motion. The motion to call the question passed by a vote of 9 in favor and 1 against. Mr. Hamilton clarified that the current status of the motion is that the Board accept the recommendation of staff to distribute 65% of the proposed budget to the districts as DAF funds, and to distribute to the programs as per the chart presented on p. 167 of the Board book. Mr. Hamilton moved to call the question on this original motion. The motion to call the question passed by a vote of 9 in favor and 1 against. The motion to distribute 65% of the proposed budget to the districts as DAF funds, and to distribute to the programs as per the chart presented on p. 167 of the Board book then passed by a vote of 8 in favor and 4 against.

Staff was instructed to prepare a resolution providing an explicit statement by the Board that the approval of the funds available for capital after 65% distribution to the districts is based solely on what funding is available, and is not a statement that it is sufficient to meet the need for capital representation or to fully staff LPDB.

d. FY 17 Pro-Forma Budgets–Suspension\*. Mr. Dixon reported that the Board passed a resolution in 2009 requiring the districts to submit pro forma budgets annually on or before the first day of April. Due to the instability of funding and the unforeseeable funding allocation for FY17, staff is requesting that the Board suspend the submittal requirement for FY17. Professor Singer moved to suspend the pro forma budget submittals by the districts for FY17. Ms. Womack seconded the motion which passed unanimously.

7. Restriction of Services Updates. Mr. Dixon reported that District 19 (East Baton Rouge Parish) has indicated that a new ROS plan is going to be submitted which will restrict even more services, District 16 (Iberia/ St. Martin/St. Mary Parishes) will be eliminating conflict attorneys, plans are being prepared for District 22 (St. Tammany/Washington Parishes) and District 33 (Allen Parish) and that a site visit is scheduled for District 32 (Terrebonne) on April 15, 2016.

8. Legislative Session, 2016. SPD Dixon briefly summarized the bills being tracked and monitored by staff including house bills 547, 588, 627, 689, 809, 818, 1012 and 1090 and senate bills 219, 374, 406 and 418.

Mr. Holthaus moved to amend the agenda which was seconded by Professor Singer. Professor Singer moved to place item 10 - Other Business - before Executive Session. The motion was seconded and passed.

9. Other Business. No other business was presented for discussion.

10. Executive Session\*. Mr. Holthaus moved to go into Executive Session. Mr. Singer seconded the motion. Mr. Holthaus moved to leave Executive Session, seconded by Ms. Womack.

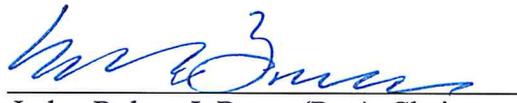
11. Next Meeting: The next meeting of the Board is Tuesday, May 10, 2016. Location to be determined.

12. Adjournment\*. Professor Larson moved to adjourn which was seconded by Ms. Womack. The meeting adjourned at 5:02 p.m.

Guests:

Richard Stricks	Herman Castete	Steve Thomas	David Price
Brett Brunson	Derwyn Bunton	Tony Tillman	Cecelia Bonin
Kyla Romanach	Paul C. Fleming	Richard Bourke	Gary Clement
Harry Fontenot	Mike Courteau	Vic Bradley	Steve Hanlon
John Di Giulio	Alan Robert	Michael A. Mitchell	Josh Perry
Kerry Cuccia	Mario Guadamud	Jim Looney	Harold Murry
Olivier Carriere	Amanda Trosclair	King Alexander	Chandra Grayson
Richard Tompson	Lindsay Blouin	Harry Fontenot	

**I HEREBY CERTIFY** that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 6th day of April, 2016, as approved by the Board on the 16th day of May, 2016, at Baton Rouge, Louisiana.

  
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Judge Robert J. Burns (Ret.), Chairman